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15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA

17 VARISCITE, INC. AND KENNETH  
18 GAY,

19 Plaintiffs,

20 v.

21 CITY OF LOS ANGELES; LOS  
22 ANGELES DEPARTMENT OF  
23 CANNABIS REGULATION; AND  
24 MICHELLE GARAKIAN,

25 Defendants.

Case No. 2:22-cv-08685-SPG-SK

Hon. Sherilyn Peace Garnett

**PLAINTIFFS' NOTICE OF  
RECENT DEVELOPMENTS IN  
SUPPORT OF MOTION TO OPEN  
DISCOVERY ON THE LIMITED  
ISSUE OF DEFENDANTS'  
PERJURY; DECLARATION OF  
CHRISTIAN KERNKAMP**

1 **I. INTRODUCTION**

2 Plaintiffs Variscite, Inc. and Kenneth Gay (“Plaintiffs”) submit this Notice of  
3 Recent Developments in support of their Motion to Open Discovery on the Limited  
4 Issue of Defendants’ Perjury. As shown below, recent events confirm that  
5 Defendants, and Jason Killeen, were willing to misrepresent the facts to the Court in  
6 order to defeat Plaintiffs’ Application for TRO/Preliminary Injunction. This Notice,  
7 combined with Plaintiffs’ Motion to Open Discovery, show that Plaintiffs have  
8 demonstrated good cause for asking the Court to open discovery into Defendant’s  
9 knowledge at the time they made the misrepresentations discussed in the Motion to  
10 Open Discovery. Thus, the Court should open discovery on that limited issue.

11 In November 2022, Plaintiffs applied for a TRO/Preliminary Injunction.  
12 Defendants opposed that Application by arguing that Plaintiffs would not suffer any  
13 irreparable harm from being excluded from the Lottery because “additional retail  
14 licenses that are not tied to the [social equity] program will be available for adult use  
15 licenses in the future” and “[a]fter January 1, 2025, all commercial cannabis  
16 application types will be available to all applicants.”

17 Plaintiffs never believed Defendants’ assertion. At the hearing on Plaintiffs’  
18 Application for TRO/Preliminary Injunction, Plaintiffs’ counsel argued there was no  
19 indication that Defendants would make retail cannabis Licenses available to non-  
20 Social Equity Applicants. Plaintiffs explained that the law Defendants cited  
21 provided only that Defendants cannot offer Licenses to non-social equity applicants  
22 before January 1, 2025. Nothing in the law required Defendants to offer Licenses to  
23 non-social equity applicants beginning January 1, 2025, and there was no reason to  
24 believe Defendants would offer such Licenses.<sup>1</sup>

25 \_\_\_\_\_  
26 <sup>1</sup> Plaintiffs also disputed Defendants’ assertion that Defendants would hold a new  
27 social equity verification process and Lottery “shortly after” the disputed Lottery  
28 (Defendants did not hold such social equity verification process and Lottery);  
disputed Defendants’ assertion that Mr. Gay could apply to be verified as a social

1 Notwithstanding Plaintiffs’ arguments, the Court accepted Defendants’  
2 representations. The Court relied on Defendants’ assertion in denying the  
3 TRO/preliminary injunction. The Court wrote in its Order:

4 *Plaintiffs have not shown that any harm caused by their inability to*  
5 *participate in today’s Lottery is truly irreparable.* According to  
6 Defendants, Plaintiff Gay “may again request verification as a SEIA  
7 when the DCR opens a new verification window [and] *DCR anticipates*  
8 *opening a new SEIA verification period shortly after the P3RR2*  
9 *Lottery is concluded.” (Killeen Decl. ¶ 25). Additionally, after*  
10 *January 1, 2025, all commercial cannabis application types will be*  
11 *available to all applicants, regardless of whether they meet the SEIA*  
12 *verification requirements. See (id. ¶ 5).* Thus, the probability that  
13 Plaintiffs may in the future become eligible under the licensing  
14 provisions *eviscerates the likelihood of irreparable harm.”*

15 After the Court denied the TRO and Preliminary Injunction, Defendants held the  
16 Lottery on December 8, 2022.

17 After the Lottery, Defendants filed a motion to dismiss the case. In the  
18 Motion to Dismiss briefing, both sides again argued about whether Defendants  
19 would issue Licenses to non-social equity applicants. Defendants characterized  
20 Plaintiffs’ position that Defendants would not issue non-social equity licenses as  
21 “mere conjecture.”

22 In this Notice, Plaintiffs write to inform the Court of a recent development.  
23 On December 18, 2024 the Mayor signed into law amendments to the Municipal  
24

25 equity applicant and participate in the Lottery coming “shortly after” the disputed  
26 Lottery (Defendants did not hold such social equity verification process and  
27 Lottery); and disputed Defendants’ assertion that Plaintiffs had no irreparable harm  
28 if Defendants followed through with their promise to hold a non-social equity  
applicant Lottery in January 2025, because of the more than two-year wait is an  
irreparable harm.

1 Code that fulfilled Plaintiffs’ predictions. The amended Municipal Code extends the  
2 period when Licenses are available exclusively to social equity applicants to  
3 December 31, 2025.

4 Defendant Department of Cannabis Regulations (“DCR”), and Mr. Killeen,  
5 proposed the amendments to the City Council and Mayor. The DCR’s proposal  
6 states to the City Council and Mayor, “If you have any questions or concerns, please  
7 **contact Jason Killeen**, Assistant Executive Director<sup>2</sup> at (213) 978-0738.”

8 The DCR’s proposal explains that—notwithstanding Defendants’  
9 representations to the Court in 2022 and 2023 that they would issue non-social  
10 equity retail Licenses beginning January 1, 2025—Defendants never intended to  
11 issue non-social equity retail Licenses. Rather, Defendants intended to exhaust the  
12 supply of Licenses through social equity Lotteries, leaving no Licenses available for  
13 non-social equity applicants on January 1, 2025.

14 The DCR’s proposal explains that they ask the City Council and Mayor to  
15 amend the Municipal Code and extend the period of social equity applicant  
16 exclusivity for Licenses because “Legal challenges to the City’s Social Equity  
17 program have interfered with DCR’s ability to administer additional lotteries *to*  
18 ***exhausted retail capacity Citywide***. An extension of approximately one year of  
19 additional time, accompanied with the other revisions below, will provide DCR with  
20 the time and flexibility to complete another random selection process *to allocate the*  
21 ***remaining retail licensing opportunities***.”<sup>3</sup>

22 ***In other words, exactly as Plaintiffs told the Court in 2022 before the Court***  
23 ***denied the TRO and Preliminary Injunction and told the Court again in 2023***  
24 ***while there was still time to prevent issuance of Licenses, Defendants always***  
25

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26  
27 <sup>2</sup> Mr. Killeen is now the Acting Executive Director.

28 <sup>3</sup> Proposal [https://clkrep.lacity.org/online/docs/2020/20-0446-s2\\_rpt\\_DCR\\_10-23-24.pdf](https://clkrep.lacity.org/online/docs/2020/20-0446-s2_rpt_DCR_10-23-24.pdf) page 2.

1 *intended to exhaust the supply of Licenses by issuing them to social equity*  
2 *applicants during the exclusivity period leaving no Licenses for non-social equity*  
3 *applicants.*

4 A. **2022: Plaintiffs’ Application for TRO/Preliminary Injunction**

5 In 2022, Plaintiffs’ Application for TRO/Preliminary Injunction explained  
6 that Plaintiffs would suffer irreparable harm from exclusion from the Lottery—even  
7 in addition to the irreparable harm of having their constitutional rights violated—  
8 because it was likely that Defendants would not issue Licenses until “at least 2025,  
9 if they issue more Licenses at all.” The more than two year delay in applying for a  
10 License would cause irreparable harm.

11 Plaintiffs wrote: “Second, aside from the constitutional violation, Plaintiffs  
12 will suffer the irreparable harm of being excluded from the Los Angeles storefront  
13 retail cannabis market unless the Court issues a preliminary injunction. *After the*  
14 *Lottery and PCN Process, Defendants will not issue any Licenses until at least*  
15 *2025, if they issue more Licenses at all.*” (Mot. for TRO/PI (Dkt. #5) at 19  
16 (emphasis added).)

17 B. **Defendants’ Opposition to TRO/Preliminary Injunction**

18 Defendants’ Opposition to the TRO/Preliminary Injunction stated that  
19 Plaintiffs would not be harmed by exclusion from the Lottery because Defendants  
20 would issue additional Licenses in the future and no Licenses will be subject to the  
21 social equity program beginning on January 1, 2025.

22 Defendants’ Opposition states: “Plaintiffs are not irreparably harmed  
23 because, as they admit, *additional retail licenses that are not tied to the SEIA*  
24 *program will be available for adult use licenses in the future.* (TRO App. p. 18;  
25 *see also* Killeen Decl. ¶ 5.)” (Opp. to TRO/Preliminary Injunction [Dkt. #14] at 26  
26 (emphasis added).)

27 Mr. Killeen’s Declaration states in the cited paragraph: “The retail, delivery,  
28 and cultivation application processes are exclusively available to verified SEIAs

1 until January 1, 2025. Verified SEIAs also have access to educational programming  
2 and grant opportunities. *After January 1, 2025, all commercial cannabis*  
3 *application types will be available to all applicants.*” (Decl. Killeen [Dkt. 14-2] ¶  
4 5.)

5 **C. The Hearing on December 7, 2022**

6 Plaintiffs’ counsel argued at the hearing that there was no reason to believe  
7 Defendants would make Licenses available to non-social equity applicants such as  
8 Mr. Gay in the future. Counsel’s outline for the hearing reminded counsel to argue:

- 9 1. There is no indication that Defendants will make retail cannabis Licenses  
10 available to non-Social Equity Applicants in 2025.
- 11 2. The law Defendants cite provides only that Defendants cannot offer  
12 Licenses to non-social equity applicants before 2025. Nothing in the law  
13 requires Defendants to offer new Licenses in 2025. There is no reason to  
14 think Defendants will offer Licenses in 2025.

15 Counsel does not have notes on what Defendants’ counsel argued in  
16 opposition. Nevertheless, Defendants’ counsel undoubtedly argued that Defendants  
17 would issue additional Licenses and the Licenses would not be limited to social  
18 equity applicants, as they argued in their briefs, as they argued in their Opposition  
19 brief and argued again in the briefing on their Motion to Dismiss.

20 **D. The Court’s Order Denying Preliminary Injunction**

21 The Court once again believed Defendants, and found Plaintiffs had no  
22 irreparable harm.

23 The Order denying the TRO/preliminary injunction states:

24 Moreover, Plaintiffs have not shown that any harm caused by  
25 their inability to participate in today’s Lottery is truly irreparable.  
26 According to Defendants, Plaintiff Gay “may again request verification  
27 as a SEIA when the DCR opens a new verification window [and] *DCR*  
28 *anticipates opening a new SEIA verification period shortly after the*

1 *P3RR2 Lottery is concluded.” (Killeen Decl. ¶ 25). Additionally, after*  
2 *January 1, 2025, all commercial cannabis application types will be*  
3 *available to all applicants, regardless of whether they meet the SEIA*  
4 *verification requirements. See (id. ¶ 5). Thus, the probability that*  
5 *Plaintiffs may in the future become eligible under the licensing*  
6 *provisions eviscerates the likelihood of irreparable harm.”*

7 (Order [Dkt. #22] at 24-25 (emphasis added).)

8 **E. 2023: Defendants’ Motion to Dismiss Complaint**

9 In 2023, when moving to dismiss the Complaint, Defendants again argued  
10 that all Licenses would be available to all applicants (not just social equity)  
11 beginning January 1, 2025.

12 Defendants’ Motion to Dismiss states: “The storefront retail, delivery, and  
13 cultivation application processes are exclusively available to verified Social Equity  
14 Individual Applicants (“SEIAs”) until January 1, 2025. (*Id.*) *After January 1, 2025,*  
15 *all commercial cannabis application types will be available to all applicants,*  
16 *regardless of whether they meet the SEIA requirements.”* (Mot. to Dismiss [Dkt.  
17 #25] at 13 (citation to Decl. Killeen removed).)

18 **F. Plaintiffs’ Opposition to Motion to Dismiss Complaint**

19 Plaintiffs’ Opposition to Defendants’ Motion to Dismiss the Complaint  
20 predicted for the Court *exactly what happened in the following two years.*  
21 Plaintiffs told the Court Defendants would attempt to exhaust the available Licenses  
22 by issuing all of them to social equity applicants in the Lottery, leaving no licenses  
23 for non-social equity applicants.

24 *It bears noting, however, that Defendants claimed in the TRO*  
25 *briefing and again in the Motion to Dismiss that all cannabis*  
26 *application types will be available to all applicants, regardless of*  
27 *whether they meet the Equity Applicant requirements, after January*  
28 *1, 2025. The Court relied on that statement in part in finding that*



1 *Plaintiffs suffered no irreparable harm from being unconstitutionally*  
2 *excluded from the Lottery for half of the total available licenses.*

3 *Defendants’ statement that licenses will be available to all*  
4 *applicants beginning January 1, 2025 is misleading, as there is no*  
5 *present plan to issue any licenses after January 1, 2025. Licenses are*  
6 *not available unless the City Council amends the Municipal Code to*  
7 *provide for the issuance of licenses. The Municipal Code section*  
8 *Defendants referenced in their brief (but did not cite) does not state*  
9 *that licenses will be available after January 1, 2025. Rather, the Code*  
10 *provides that no Licenses may be issued to non-Equity Applicants*  
11 *before January 1, 2025: “Except as otherwise permitted under Section*  
12 *104.07, Type 10 Licenses shall be limited to only Social Equity*  
13 *Applicants, as defined in Section 104.20(a) and (b), until January 1,*  
14 *2025.” LAMC § 104.06(a).*

15 The City has already allocated approximately double the  
16 Licenses they originally intended to issue. When the cannabis laws  
17 were passed in 2019, the City planned to issue 100 retail licenses in  
18 Phase Three, Round One, and another 150 licenses in Phase Three,  
19 Round Two. LAMC § 104.06.1(c)(4), (d)(5) (2019). To settle an earlier  
20 lawsuit, Defendants doubled the number of Licenses allocated in Phase  
21 Three, Round One to 200. LAMC § 104.06.1(B)(6-7). The City  
22 allocated 100 Licenses in the December 2022 Lottery that underlies this  
23 litigation. Due to complaints about the verification process, the City  
24 announced it will issue more licenses in a February Lottery. The Code  
25 provides that the Lottery will allocate all the Licenses available until  
26 the City reaches the saturation limit beyond which License are not  
27 allowed: “If additional capacity is available in any Community Plan  
28 Area after a lottery ends, DCR will hold another lottery pursuant to



1 Subsection (c)(4).” LAMC § 104.06.1(c)(6). *Thus, there will be no*  
2 *capacity for non-Equity Applicants to obtain retail Licenses in 2025*  
3 *and there is no reason to think the Council will amend the Municipal*  
4 *Code to issue additional Licenses.*

5 (Opp. to MTD [Dkt. #26] at 5-6.)

6 **G. Defendants’ Reply in Support to Motion to Dismiss Complaint**

7 Rather than concede their obvious intention, Defendants argued in their Reply  
8 in Support of Motion to Dismiss that Plaintiffs’ statements were mere conjecture  
9 and virtually uncited (which was not true, as Plaintiffs cited to the statute at issue as  
10 quoted above):

11 Defendants’ Reply states:

12 In the Opposition’s “Statement of Facts,” which is virtually  
13 bereft of citations to evidence or to the Complaint, Plaintiffs apparently  
14 attempt to re-litigate their unsuccessful *ex parte* application for a  
15 temporary restraining order, particularly *on the subject of whether*  
16 *licenses will issue after they are no longer subject to the City’s Social*  
17 *Equity Program in 2025.*

18 None of Plaintiffs’ contentions are relevant to the City’s Motion.  
19 Moreover, *they are based purely on conjecture. The most recent*  
20 *P3RR2 Lottery did not exhaust retail licenses. Given that three years*  
21 *elapsed between P3RR1 (Sept. 2019) and P3RR2 (Dec. 2022), it is*  
22 *entirely plausible that P3RR3 will not occur until after 2025, after*  
23 *licensing is no longer exclusively available through City’s Social*  
24 *Equity Program.*

25 (Reply [Dkt. #34] at 5-6 (citations omitted).)

26 **H. 2024: Defendants Amend the Law for the Exact Reason Plaintiffs**  
27 **Predicted**

28 In January 2025, Mr. Killeen posted a news bulletin on the DCR website

1 announcing that DCR proposed amendments to the Los Angeles Municipal Code to  
2 the City Council and Mayor. *See* OCM January 2025 News Bulletin.<sup>4</sup> The  
3 amendments were signed by the City Council and Mayor on December 18, 2024,  
4 and they are now in effect. *Id.*<sup>5</sup>

5 The DCR proposed the amendments to the City Council and Mayor. The  
6 DCR proposal transmittal letter states, “If you have any questions or concerns,  
7 please contact Jason Killeen, Assistant Executive Director at (213) 978-0738.”  
8 Proposal to City Council Planning and Land Use Management Committee at 5.<sup>6</sup>

9 Mr. Killeen is now the Acting Executive Director of the DCR. *Id.*

10 The Proposal explains the purpose of the amendments: “Extend[ing] the  
11 Social Equity exclusivity period for retail, delivery and cultivation licenses from  
12 1/1/2025 to 12/31/2025 and administer an additional retail lottery.” *Id.*

13 The Proposal explains DCR’s purpose in extending the deadline and holding  
14 an additional social equity Lottery: “DCR recommends extending the exclusivity for  
15 retail, cultivation and delivery licenses Social until December 31, 2025. ***Legal***  
16 ***challenges to the City’s Social Equity program have interfered with DCR’s ability***  
17 ***to administer additional lotteries to exhausted retail capacity Citywide.*** An  
18 extension of approximately one year of additional time, accompanied with the other  
19 revisions below, will provide DCR with the time and flexibility to complete another  
20 random selection process ***to allocate the remaining retail licensing opportunities.***  
21 *Id.* at 2.

22 ***In other words, exactly as Plaintiffs told the court in 2022 and 2023,***  
23 ***Defendants, under Mr. Killeen’s direction, are attempting to issue all retail***  
24

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25 <sup>4</sup> *See* OCM website, <https://cannabis.lacity.gov/articles/january-2025-news-bulletin>.

26 <sup>5</sup> *See also* signed bill, [https://clkrep.lacity.org/online/docs/2020/20-0446-](https://clkrep.lacity.org/online/docs/2020/20-0446-S2_ord_188451_12-30-24.pdf)  
27 [S2\\_ord\\_188451\\_12-30-24.pdf](https://clkrep.lacity.org/online/docs/2020/20-0446-S2_ord_188451_12-30-24.pdf).

28 <sup>6</sup> L.A. City File, [https://clkrep.lacity.org/online/docs/2020/20-0446-s2\\_rpt\\_DCR\\_10-](https://clkrep.lacity.org/online/docs/2020/20-0446-s2_rpt_DCR_10-23-24.pdf)  
[23-24.pdf](https://clkrep.lacity.org/online/docs/2020/20-0446-s2_rpt_DCR_10-23-24.pdf).

1 *Licenses to social equity applicants and exhaust the supply while the law still*  
2 *excludes non-social equity applicants.* This is despite Defendants’ repeated  
3 assurances to the Court and Plaintiffs during this litigation that “additional retail  
4 licenses that are not tied to the SEIA program will be available for adult use licenses  
5 in the future” and “after January 1, 2025, all commercial cannabis application types  
6 will be available to all applicants.”

7 **I. The Amendments**

8 *First*, as noted above, Defendants amended the Municipal Code so that only  
9 social equity applicants can apply for Licenses through December 31, 2025 so that  
10 they can exhaust the supply of Licenses.<sup>7</sup>

11 *Second*, Defendants amended the definition of social equity applicant.  
12 Defendants explained:

13 Specifically, DCR proposes removing the “Disproportionately  
14 Impacted Area” criterion entirely, and removing the California-specific  
15 component to the “Cannabis Arrest or Conviction” requirement. These  
16 criteria could arguably be construed as violative of the dormant  
17 Commerce Clause, if/when it applies to federally-prohibited substances  
18 like recreational cannabis. Although the City contends that the dormant  
19 Commerce Clause does not currently apply to recreational cannabis due  
20 to its prohibition under federal law, and that the City’s criteria comprise  
21 part of a constitutionally justified means of achieving equitable  
22 outcomes, *courts around the country have taken inconsistent*  
23 *positions on comparable regulations outside of California. Moreover,*  
24 *the dormant Commerce Clause will undoubtedly apply to recreational*  
25 *cannabis if the federal government legalizes it in the future.*  
26

27 \_\_\_\_\_  
28 <sup>7</sup> For all amendments discussed in this section, see Proposal  
[https://clkrep.lacity.org/online/docs/2020/20-0446-s2\\_rpt\\_DCR\\_10-23-24.pdf](https://clkrep.lacity.org/online/docs/2020/20-0446-s2_rpt_DCR_10-23-24.pdf).

1 *Accordingly, out of an abundance of caution, DCR recommends*  
2 *amending the criteria.*

3 *Id.* at 4.

4 *Third*, Defendants divided the Lottery into three Sub-lotteries. The three  
5 Sub-lotteries are: (1) social equity applicants verified in 2019, (2) social equity  
6 applicants verified in 2022 (when Plaintiff Gay applied), and (3) social equity  
7 applicants who will be verified in 2025. *Id.* at 2.

8 **J. The Effect of the Amendments on Plaintiffs**

9 Defendants have not at this time disclosed how many Licenses will be  
10 available in the three Sub-lotteries. Defendants have disclosed neither the total  
11 number of available Licenses nor how the Licenses will be divided among the three  
12 Sub-lotteries.

13 Even if Mr. Gay is able to apply to be verified as a social equity applicant in  
14 2025 so that he can participate in one of the three Sub-lotteries, and even if  
15 Defendants verify Mr. Gay so he can participate in one Sub-lottery, he will be  
16 excluded from consideration in two of the three Sub-Lotteries. Thus, Plaintiffs were  
17 irreparably harmed by exclusion from the 2022 Lottery because they did not get to  
18 compete for the 100 available Licenses, and in the upcoming Sub-lotteries, Mr. Gay  
19 will be able to compete at most in one Sub-lottery for an unknown number of  
20 Licenses.<sup>8</sup>

21 \_\_\_\_\_  
22 <sup>8</sup> Separately, Defendants opened the Public Convenience and Necessity (“PCN”)  
23 process to non-social equity applicants. The PCN process provides no relief to  
24 Plaintiffs. The PCN process is not equivalent to the Lottery process for multiple  
25 reasons, three of which are paramount.

26 First, an applicant must obtain property to enter the PCN process, where no  
27 property is required to enter the Lottery. In the PCN process opened in 2019, the  
28 City Council did not even begin considering applications until approximately two  
years later, requiring applicants to bear the cost of holding properties for that period  
of time. Approximately 89 applicants submitted PCN applications in 2019, and

1 **II. CONCLUSION**

2 The discussion above further confirms that Defendants, and Mr. Killeen, were  
3 willing to misrepresent the facts to the Court to defeat Plaintiffs' Application for  
4 TRO/Preliminary Injunction. Thus, Plaintiffs have shown good cause for the Court  
5 to open discovery as requested in Plaintiffs' Motion.

6  
7 DATED: February 4, 2025

JEFFREY M. JENSEN, PC

8  
9 By: /s/ Jeffrey M. Jensen

10 Jeffrey M. Jensen

11 Attorney for plaintiffs Variscite, Inc. and  
Kenneth Gay

12  
13 DATED: February 4, 2025

KERNKAMP LAW APC

14  
15 By: /s/ Christian Kernkamp

16 Christian Kernkamp

17 Attorney for plaintiff Variscite, Inc. and  
Kenneth Gay

18  
19  
20  
21 \_\_\_\_\_  
22 approximately 20 had dropped out before the City Council began considering  
23 applications, presumably because the applicants could not keep up with the cost of  
carrying the properties during the two year wait.

24 Second, PCN applicants must be approved by vote of the City Council, and  
25 the City Council has no target number of Licenses to grant. In the PCN process  
26 opened in 2019, the City Council approved approximately six applicants from the  
27 approximately 89 applicants who submitted applications. The small chance of being  
approved must be considered in conjunction with the cost of carrying property.

28 Third, Plaintiffs have little to no chance of being approved by the City  
Council in light of their lawsuit against Defendants.

**DECLARATION OF CHRISTIAN E. KERNKAMP**

I, Christian E. Kernkamp, declare as follows:

1. I am an attorney duly licensed to practice before all courts in the State of California. I am a lawyer in the law firm Kernkamp Law, APC, counsel of record for plaintiffs Variscite, Inc. and Kenneth Gay (together, "Plaintiffs") in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, I could and would testify to such facts under oath.

2. I make this Declaration in support of Plaintiffs' Notice of Recent Developments in Support of Motion to Open Discovery.

3. I reviewed my outline for the oral argument held on December 7, 2022 for Plaintiffs' Motion for TRO/Preliminary Injunction. My outline reminds me to argue that there is no indication that Defendants will make retail cannabis Licenses available to non-Social Equity Applicants in 2025. It further reminds me to argue that the law Defendants cite provides only that Defendants cannot offer Licenses to non-social equity applicants before 2025. Nothing in the law requires Defendants to offer new Licenses in 2025. There is no reason to think Defendants will offer Licenses in 2025.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed February 4, 2025, at Los Angeles, California.

By: /s/ Christian Kernkamp  
Christian E. Kernkamp